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Effective on 12/08/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).**FEE TRANSMITTAL**  
**For FY 2008**☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 770

**Complete if Known**

Application Number	10/789,797
Filing Date	February 27, 2004
First Named Inventor	Patrick Miles
Examiner Name	TBD
Art Unit	TBD
Attorney Docket No.	014US

**METHOD OF PAYMENT (check all that apply)**
☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_
☒ Deposit Account Deposit Account Number: 50-2040 Deposit Account Name: NuVasive, Inc.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Small Entity	Fee (\$)	Small Entity	Fee (\$)	Small Entity	Fee (\$)	
Utility	310	155	510	255	210	105	
Design	210	105	100	50	130	65	
Plant	210	105	310	155	160	80	
Reissue	310	155	510	255	620	310	
Provisional	210	105	0	0	0	0	

**2. EXCESS CLAIM FEES**

Fee Description	Small Entity	Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	210	105
Multiple dependent claims	370	185

Total Claims Extra Claims Fee (\$)

- 20 or HP = x =

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims Extra Claims Fee (\$)

- 3 or HP = x =

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims

Fee (\$)

Fee Paid (\$)

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$260 (\$130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets Extra Sheets Number of each additional 50 or fraction thereof Fee (\$)

- 100 = / 50 = (round up to a whole number) x = Fee Paid (\$)

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Petition to Revoke under 37 CFR 1.137(f) \$770

**SUBMITTED BY**

Signature

Registration No. 58,148  
(Attorney/Agent)

Telephone 858-909-1845

Name (Print/Type) Rory Schermerhorn

Date December 17, 2007

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re: Patent Application of	)	
Patrick Miles, et al.	)	Group Art Unit: TBD
App. Ser. No. 10/789,797	)	
Filed: February 27, 2004	)	Examiner: TBD
For: SURGICAL ACCESS SYSTEM	)	
AND RELATED METHODS	)	

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 17, 2007:

  
\_\_\_\_\_  
Rory Schermerhorn

**TRANSMITTAL LETTER**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Enclosed for filing in the above-referenced application please find the following:

- (1) Petition for Revival of an Application for Failure to Notify the Office of a Foreign or International Filing under 37 CFR 1.137(f) (2 pages);
- (2) Fee Transmittal authorizing the Office to Charge Deposit Account Number 50-2040 the associated Petition Fee of \$770 (1 page & 1 copy);
- (3) Rescission of Prior Non-Publication Request (1 page); and
- (4) Return Postcard.

Although Applicants are filing this Petition according to the Office's standard Form 64a, which speaks of revival, Applicants believe that under the controlling statutory authority of 35 USC Section 122(b)(2)(B)(iii) no revival is necessary, and that a statement that delay in submitting the notice was unintentional is sufficient to prevent abandonment here.

If there are any questions or comments pertaining to this Petition, or anything further regarding this application, the Examiner is invited to call the undersigned counsel. If there are any other fees or credits due as a result of this Petition, the Commissioner is authorized to charge such fees or credit any overpayments to Deposit Account Number 50-2040 in the name of NuVasive, Inc.

Respectfully submitted,

NUVASIVE, INC.

By: \_\_\_\_\_



Rory Schermerhorn, Esq.  
Registration No. 58,148

4545 Towne Centre Court  
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Tel.: (858) 909-1845

Date: December 17, 2007